

REMARKS

In the final Office Action, the Examiner rejects claims 42-45 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; rejects claims 42-45 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejects claims 1, 5-11, and 42-45 under 35 U.S.C. § 103(a) as unpatentable over FAIN et al. (U.S. Patent Application Publication No. 2003/0220912) in view of PETROPOULOS (U.S. Patent Application Publication No. 2005/0027670) and BEALL et al. (U.S. Patent No. 6,321,224); and rejects claims 2-4 under 35 U.S.C. § 103(a) as unpatentable over FAIN et al. in view of PETROPOULOS, BEALL et al., and TAIRA et al. (U.S. Patent Application Publication No. 2005/0050045). Applicants traverse the rejections.¹

By way of the amendment, Applicants propose canceling claims 42-45 without prejudice or disclaimer and amending claims 1, 3, 7-11, and 42-45. No new matter has been added by way of the proposed amendment. Claims 1-11 remain pending.

Claims 42-45 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 42-45 have been canceled, rendering this rejection moot.

Claims 42-45 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 42-45 have been canceled, rendering this rejection moot.

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine reference, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

Pending claims 1 and 5-11 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over FAIN et al. in view of PETROPOULOS and BEALL et al. Applicants traverse this rejection.

Independent claim 1 recites a method for processing a query. The method includes receiving a query, wherein the query includes at least an entered term or phrase; determining, based at least in part on an analysis of the entered term or phrase, whether the query is a commercial query; processing the query in a first manner when the query is not determined to be a commercial query, where processing the query in a first manner includes ranking documents in a first manner; and processing the query in a second, different manner in response to determining that the query is a commercial query, where processing the query in a second manner includes ranking documents in a second, different manner. FAIN et al., PETROPOULOS, and BEALL et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, FAIN et al., PETROPOULOS, and BEALL et al. do not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner. The Examiner relies on paragraphs 0024, 0048, 0050, and 0080 of FAIN et al. and column 4, lines 62- column 5, line 2 of BEALL et al. as allegedly disclosing these features (final

Office Action, pp. 4-5). Applicants respectfully disagree with the Examiner's interpretation of FAIN et al. and BEALL et al.

At the outset, Applicants note that the Examiner admits that FAIN et al. does not disclose determining, based at least in part on an analysis of the entered term or phrase, whether the query is a commercial query (final Office Action, pg. 5). Thus, it is unreasonable for the Examiner to rely on FAIN et al. for disclosing processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner, as recited in claim 1.

Nevertheless, at paragraph 0024, FAIN et al. discloses:

It is also an object of the present invention to provide a system and method for categorizing documents in a distributed database to create categorized documents by initially assuming all documents are non-commercial, filtering out all commercial documents and placing them in a first category and using the first category as a collection of advertiser prospects for a pay for performance search engine.

This section of FAIN et al. discloses categorizing documents in a distributed database to create categorized documents. This section of FAIN et al. does not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query

in a second manner includes ranking documents in a second, different manner, as recited in claim 1.

At paragraph 0048, FAIN et al. discloses:

Described herein is a customizable system for identifying and categorizing the records in or the results of a search of the records in a distributed database, and for categorizing and presenting the records or search results according to the commercial nature of the record in a more organized, more easily understood, and therefore, more useful manner. The following descriptions detail how the pages of or the results of a search of the Internet may be identified and categorized as commercial and non-commercial (informational), but it is readily understood that the records of a distributed database, including the Internet, may be categorized into a limitless variety of categories, including sub-categories of the commercial and non-commercial categories. Other categories may include on-line shopping and advertisements for traditional stores and services. Alternatively, or additionally, the records in or the search results of the records in a distributed database may be categorized and presented geographically, via price range, and by many other criteria according to a variety of user-specified variables. Additionally, the methods disclosed herein may be used across any distributed database coupled in any manner to any kind of network including Local Area Networks (LAN) and Wide Area Networks (WAN), and not just the Internet.

This section of FAIN et al. discloses a customizable system for identifying and categorizing the records or the results of a search of the records in a distributed database, and for categorizing and presenting the records or search results according to the commercial nature of the record in a more organized, more easily understood, and therefore, more useful manner. This section of FAIN et al. does not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query

in a second manner includes ranking documents in a second, different manner,, as recited in claim 1.

At paragraph 0050, FAIN et al. discloses:

As shown in FIGS. 1A and 1B, the Resulting Pages 50 can generally be categorized as commercial, and non-commercial. Resulting Pages in the commercial category ("Commercial Pages") 52, 62 generally include those Resulting Pages that facilitate the buying and/or selling of goods and/or services or that evince an intent to conduct commercial activity by the publisher of that page (are commercial in nature). For example, Commercial Pages 52, 62 include pages that offer goods and/or services via sale, lease, trade, or other such transaction, or that provide contact information for such transactions to be made by some other means such as facsimile, telephone or in-person. Resulting Pages in the non-commercial category ("Non-Commercial Pages") 54, 64 generally include those that are informational in nature and do not facilitate the buying and/or selling of goods and/or services and hence are not commercial in nature. Non-Commercial Pages may alternately be called "Informational Pages."

This section of FAIN et al. discloses that the Resulting Pages 50 can generally be categorized as commercial, and non-commercial. This section of FAIN et al. does not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner,, as recited in claim 1.

At paragraph 0080, FAIN et al. discloses:

In a further embodiment, the Commercial Pages may be used to generate sales leads. Using the URLs of the Commercial Pages, contact information for the companies hosting the Commercial Pages can be obtained from a domain name registry. The list of companies and their contact information can then be compiled to develop a list of sales leads. As depicted in FIG. 7 a system 270 for categorizing the Resulting Pages generally includes the following steps: (a)

assume that each Resulting Page is non-commercial in nature 272; (b) identify and filter out the pages that are commercial in nature into a first category 274; (c) identify and filter out existing advertiser client pages from the pages in the first category 276; (d) gather contact information for the remaining pages ("lead pages") 278; and (e) provide the lead pages and their associated contact information as sales leads 280 to, for instance, a pay for performance search engine provider or any other interested party.

This section of FAIN et al. discloses a system and method for categorizing the Resulting Pages. This section of FAIN et al. does not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in a first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner, as recited in claim 1.

In stark contrast to the above features of claim 1, FAIN et al. discloses, with reference to Fig. 6, that in response to a search term or phrase, the system generates pages according to a relevance method (steps 260 and 262, Fig. 6; para. 0079). The system then categorizes the pages according to categorization criteria, which may be specified by the user (step 264, Fig. 6; para. 0079). The system presents the categorized pages to the user according to the user's preferences, which may include presenting pages in some categories and not presenting pages in other categories (step 266, Fig. 6; paras. 0078 and 0079). FAIN et al. does not disclose or suggest processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in first manner includes ranking documents in a first manner; and processing the received query

in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner, as recited in claim 1.

At column 4, lines 62 – column 5, line 2, BEALL et al. discloses a search string that comprises search terms in any order. This section of BEALL et al. does not mention commercial or non-commercial queries, let alone processing the received query, where the query includes at least an entered term or phrase, in a first manner when the query is not determined to be a commercial query, where processing the received query in first manner includes ranking documents in a first manner; and processing the received query in a second, different manner in response to determining that the query is a commercial query, where processing the received query in a second manner includes ranking documents in a second, different manner, as recited in claim 1.

The disclosure of PETROPOULOS does not remedy the deficiencies in the disclosures of FAIN et al. and BEALL et al. set forth above.

For at least these reasons, Applicants submit that claim 1 is patentable over FAIN et al., PETROPOULOS, and BEALL et al., whether taken alone or in any reasonable combination.

Claims 5-8 and 42 depend from claim 1. Therefore, these claims are patentable over FAIN et al., PETROPOULOS, and BEALL et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

Claims 9-11 recite features similar to, yet possibly of different scope than, features recited above with respect to claim 1. Therefore, claims 9-11 are patentable over FAIN et al., PETROPOULOS, and BEALL et al., whether taken alone or in any

reasonable combination, for reasons similar to the reasons given above with respect to claim 1.

Claims 2-4 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over FAIN et al. in view of PETROPOULOS, BEALL et al., and TAIRA et al. Applicants respectfully traverse the rejection.

Claims 2-4 depend from claim 1. The disclosure of TAIRA et al. does remedy the deficiencies in the disclosures of FAIN et al., PETROPOULOS, and BEALL et al. set forth above with respect to claim 1. Therefore, Applicants submit that claims 2-4 are patentable over FAIN et al., PETROPOULOS, BEALL et al., and TAIRA et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

In view of the foregoing amendments and remarks, Applicants respectfully request entry of the present amendment and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, L.L.P.

By: /Meagan S. Walling, Reg. No. 60,112/
Meagan S. Walling
Registration No. 60,112

Date: December 21, 2007

11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 44989